

REMARKS

Claims 1-15, 17-20 and 38-55 are pending in the present application. Claims 1-5 were previously withdrawn from consideration as drawn to a non-elected invention. In this response, no claims have been cancelled, amended, or added. Accordingly, claims 1-15, 17-20 and 38-55 remain under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

Claim Rejections-35 U.S.C. §102(e)

The Examiner has maintained the rejection of Claims 6-15, 17-20, and 38-55 under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. 6,620,177 to Buelna et al ("Buelna"). In the final Office Action, the Office disagrees with the Applicants and states that element 250 is a protective shield. The Office points out that when the device of Buelna is in the low profile position, as shown in Figs. 10A and 10C, element 250 closes the expandable region. When element 250 is open, it is over at least a portion of the expandable region to thereby read on the claim limitation because this area is being considered the shield.

Applicants strongly disagree with the rejection and respectfully request that the Office review Buelna's description of Figs. 10A-10C at column 5, lines 27-31 and column 9, lines 24-43. If this disclosure is read in conjunction with a review of the figures, it is absolutely clear that element 250 is a flexible tube and not a protective shield. First, Figs. 10A-10C show the shaft assembly in its expanded configuration (see column 5, lines 27-28), not a low profile position. Specifically, Fig. 10A shows a cross-sectional view of the shaft assembly taken along lines 10A-10A, and Fig. 10C depicts a cross-sectional view of the shaft assembly taken along lines 10C-10C (see column 5, lines 29-31). In the expanded configuration, the sealing membrane 260 stretches across the underside of the expanded region (see column 9, lines 31-32), and the remaining portion is adhered to the flexible tube (see column 9, lines 28-29). Thus, the area being referred to by the Office as being a protective shield that is deployable over at least a portion of the expandable region is actually the area where the membrane is adhered to the flexible tube (Fig. 10B). Given that there is no deployable protective shield, Buelna fails to be an anticipatory reference.

At least in view of the above, withdrawal of the rejection under 35 U.S.C. §102(e) is respectfully requested.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 506512002100. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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